

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
ROBERTO DELANUEZ,

Plaintiff,

- against -

THE CITY OF NEW YORK, DET. WILLIAM  
WALDRON, SGT. ANTHONY LONGOBARDI,  
P.O. TOMAS REYES, LT. MICHAEL CULKIN,  
OFFICE OF THE DISTRICT ATTORNEY OF KINGS  
COUNTY, ASSISTANT DISTRICT ATTORNEY  
LECIA GRIEPP, ASSISTANT DISTRICT ATTORNEY  
LEILA ROSINI, ASSISTANT DISTRICT ATTORNEY  
LINDSEY LIEBERMAN AND ASSISTANT DISTRICT  
ATTORNEY ERNEST CHEM,

Defendants.

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ROBERTO DELANUEZ, by his attorneys, FIGMAN AND EPSTEIN,LLP,  
as and for his Verified Complaint, alleges as follows, upon  
information and belief:

NATURE OF THE ACTION

FIRST: This civil rights action arises from the defendant  
police officer's unlawful and improper arrest and imprisonment of  
plaintiff, and harassment of plaintiff on June 3, 2011, and the  
subsequent prosecution of plaintiff by defendants which ended by  
the dismissal of all charges on February 4, 2013.

SECOND: Plaintiff seeks compensatory and punitive damages  
for violation of plaintiff's civil rights pursuant to 42 U.S.C.  
§§ 1981, 1983, 1985 and 1986 and an award of costs, disbursements  
and attorneys fees under 42 U.S.C. §1988. Plaintiff also seeks  
compensatory and punitive damages under State Law tort claims

VERIFIED  
COMPLAINT

Index No:

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Date Filed:  
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against all defendants named herein.

#### JURISDICTION

THIRD: This action is predicated upon violations of plaintiff's Civil Rights protected under the United States Constitution inclusive of the Fourth, Fifth and Fourteenth Amendments to the United States Constitution and actionable pursuant to 42 U.S.C. §§ 1981, 1983, 1985 and 1986. Further, plaintiff has suffered damages in a sum of money exceeding the monetary jurisdictional limits of all lower Courts.

#### VENUE

FOURTH: That venue for this action is placed in the County of Kings because that is the county of occurrence of the acts alleged herein pursuant to CPLR 504(3).

#### NOTICE OF CLAIM

FIFTH: That on February 26, 2013, plaintiff caused a Notice of Claim to be served upon defendant THE CITY OF NEW YORK.

SIXTH: The Notice of Claim was delivered to the person designated by law as a person to whom such claim may be presented and served.

SEVENTH: The Notice of Claim was in writing, sworn to by or on behalf of the plaintiff and contained the name and post office address of the plaintiff and plaintiff's attorney, the nature of the claim, the time when the place where and the manner by which the claim arose, and the damages and injuries claimed to

have been sustained.

EIGHTH: That on May 6, 2013, plaintiff presented before the defendant THE CITY OF NEW YORK and gave testimony pursuant to General Municipal Law 50-h about the acts and occurrences which gave rise to this action.

NINTH: Defendant THE CITY OF NEW YORK never requested a physical exam.

TENTH: Defendant THE CITY OF NEW YORK has failed and refused to pay and/or adjust the claim within the statutory period of time.

ELEVENTH: More than thirty (30) days have elapsed since the presentation of the claim.

TWELFTH: This action has been commenced within one year and ninety days after the happening of the event upon which the claim is based.

#### PARTIES

THIRTEENTH: Plaintiff ROBERTO DELANUEZ was and continues to be a resident of the State of New York, County of Kings.

FOURTEENTH: Defendant THE CITY OF NEW YORK is a municipal corporation duly authorized and existing under and by virtue of the laws of the State of New York.

FIFTEENTH: Defendant THE CITY OF NEW YORK has established and maintains a police department which is an agency of defendant THE CITY OF NEW YORK.

SIXTEENTH: Defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY is an agency of defendant THE CITY OF NEW YORK.

SEVENTEENTH: Defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY maintains a principal office at 350 Jay Street, Brooklyn, New York 11201.

EIGHTEENTH: At all times relevant, defendant THE CITY OF NEW YORK employed the individual defendant, DET. WILLIAM WALDRON, of the 81<sup>st</sup> Precinct.

NINETEENTH: At all times relevant, defendant DET. WILLIAM WALDRON was a duly appointed and acting police officer of defendant THE CITY OF NEW YORK.

TWENTIETH: At all times relevant, defendant DET. WILLIAM WALDRON was acting under the color of State Law.

TWENTY-FIRST: At all times relevant, defendant DET. WILLIAM WALDRON was acting in both his individual and official capacities as an employee of defendant THE CITY OF NEW YORK.

TWENTY-SECOND: At all times relevant, defendant THE CITY OF NEW YORK employed the individual defendant, SGT ANTHONY LONGOBARDI of the 81<sup>st</sup> Precinct.

TWENTY-THIRD: At all times relevant, defendant SGT. ANTHONY LONGOBARDI was a duly appointed and acting police officer of defendant THE CITY OF NEW YORK.

TWENTY-FOURTH: At all times relevant, SGT. ANTHONY LONGOBARDI was acting under the color of State Law.

TWENTY-FIFTH: At all times relevant, SGT. ANTHONY LONGOBARDI, was acting in both his individual and official capacities as an employee of defendant THE CITY OF NEW YORK.

TWENTY-SIXTH: At all times relevant, defendant THE CITY OF NEW YORK employed the individual defendant, P.O. TOMAS REYES of the 81<sup>st</sup> Precinct.

TWENTY-SEVENTH: At all times relevant, defendant P.O. TOMAS REYES was a duly appointed and acting police officer of defendant THE CITY OF NEW YORK.

TWENTY-EIGHTH: At all times relevant, defendant P.O. TOMAS REYES was acting under the color of State Law.

TWENTY-NINTH: At all times relevant, defendant P.O. TOMAS REYES, was acting in both his individual and official capacities as an employee of defendant THE CITY OF NEW YORK.

THIRTIETH: At all times relevant, defendant THE CITY OF NEW YORK employed the individual defendant, LT. MICHAEL CULKIN of the 81<sup>st</sup> Precinct.

THIRTY-FIRST: At all times relevant, defendant LT. MICHAEL CULKIN was a duly appointed and acting police officer of defendant THE CITY OF NEW YORK.

THIRTY-SECOND: At all times relevant, defendant LT. MICHAEL CULKIN was acting under the color of State Law.

THIRTY-THIRD: At all times relevant, defendant LT. MICHAEL CULKIN was acting both in his individual and official capacities

as an employee of defendant THE CITY OF NEW YORK.

THIRTY-FOURTH: At all times relevant, defendant THE CITY OF NEW YORK employed the individual defendant, DISTRICT ATTORNEY CHARLES J. HYNES.

THIRTY-FIFTH: At all times relevant, defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY employed the individual defendant DISTRICT ATTORNEY CHARLES J. HYNES.

THIRTY-SIXTH: At all times relevant, defendant DISTRICT ATTORNEY CHARLES J. HYNES was a local officer of defendant THE CITY OF NEW YORK, pursuant to Public Officers Law, Section 2.

THIRTY-SEVENTH: At all times relevant, defendant DISTRICT ATTORNEY CHARLES J. HYNES was an agent of defendant THE CITY OF NEW YORK.

THIRTY-EIGHTH: At all times relevant, defendant DISTRICT ATTORNEY CHARLES J. HYNES was acting under the color of State Law.

THIRTY-NINTH: At all times relevant, defendant DISTRICT ATTORNEY CHARLES J. HYNES was acting in both his individual and official capacities as an employee and agent of defendant THE CITY OF NEW YORK.

FORTIETH: At all times relevant, defendant DISTRICT ATTORNEY CHARLES J. HYNES was acting in both his individual and official capacities as an employee and agent of defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY.

**FORTY-FIRST:** At all times relevant, defendant THE CITY OF NEW YORK employed the individual defendant, ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP.

**FORTY-SECOND:** At all times relevant, defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY employed the individual defendant, ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP.

**FORTY-THIRD:** At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP was a local officer of defendant THE CITY OF NEW YORK pursuant to Public Officers Law, Section 2.

**FORTY-FOURTH:** At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP was an agent of THE CITY OF NEW YORK.

**FORTY-FIFTH:** At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP was acting under the color of State Law.

**FORTY-SIXTH:** At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP was acting both in her individual and official capacities as an employee and agent of defendant THE CITY OF NEW YORK.

**FORTY-SEVENTH:** At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP was acting in both her individual and official capacities as an employee and agent of defendant THE OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY.

**FORTY-EIGHTH:** At all times relevant, defendant THE CITY

OF NEW YORK employed the individual defendant, ASSISTANT DISTRICT ATTORNEY LEILA ROSINI.

FORTY-NINTH: At all times relevant, defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY employed the individual defendant, ASSISTANT DISTRICT ATTORNEY LEILA ROSINI.

FIFTIETH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LEILA ROSINI was a local officer of defendant THE CITY OF NEW YORK, pursuant to Public Officers Law, Section 2.

FIFTY-FIRST: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LEILA ROSINI was an agent of defendant THE CITY OF NEW YORK.

FIFTY-SECOND: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LEILA ROSINI was acting under the color of State Law.

FIFTY-THIRD: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LEILA ROSINI was acting in both her individual and official capacities as an employee and agent of defendant THE CITY OF NEW YORK.

FIFTY-FOURTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LEILA ROSINI was acting in both her individual and official capacities as an employee and agent of the defendant, THE OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY.

FIFTY-FIFTH: At all times relevant, defendant THE CITY OF NEW YORK employed the individual defendant, ASSISTANT DISTRICT

ATTORNEY LINDSAY LEIBERMAN.

FIFTY-SIXTH: At all times relevant, defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY employed the individual defendant, ASSISTANT DISTRICT ATTORNEY LINDSAY LIEBERMAN.

FIFTY-SEVENTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LINDSAY LIEBERMAN was a local officer of defendant THE CITY OF NEW YORK, pursuant to Public Officers Law, Section 2.

FIFTY-EIGHTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN was an agent of defendant THE CITY OF NEW YORK.

FIFTY-NINTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LINDSAY LIEBERMAN was acting under the color of State Law.

SIXTIETH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN was acting in both her individual and official capacities as an employee and agent of defendant THE CITY OF NEW YORK.

SIXTY-FIRST: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN was acting in both her individual and official capacities as an employee and agent of the defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY.

SIXTY-SECOND: At all times relevant, defendant THE CITY OF NEW YORK employed the individual defendant, ASSISTANT DISTRICT

ATTORNEY ERNEST CHEM.

SIXTY-THIRD: At all times relevant, defendant OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY employed the individual defendant, ASSISTANT DISTRICT ATTORNEY ERNEST CHEM.

SIXTY-FOURTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY ERNEST CHEM was a local officer of defendant THE CITY OF NEW YORK, pursuant to Public Officers Law, Section 2.

SIXTY-FIFTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY ERNEST CHEM was an agent of defendant THE CITY OF NEW YORK.

SIXTY-SIXTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY ERNEST CHEM was acting under the color of State Law.

SIXTY-SEVENTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY ERNEST CHEM was acting in both his individual and official capacities as an employee and agent of defendant THE CITY OF NEW YORK.

SIXTY-EIGHTH: At all times relevant, defendant ASSISTANT DISTRICT ATTORNEY ERNEST CHEM was acting in both his individual and official capacities as an employee and agent of the defendant THE OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY.

FACTS UNDERLYING PLAINTIFF'S CLAIMS FOR RELIEF

SEVENTIETH: That on or about June 3, 2011, at approximately 1:00 a.m., plaintiff ROBERTO DELANUEZ was falsely

and unlawfully arrested by defendant THE CITY OF NEW YORK, by its agents, servants and/or employees.

SEVENTY-FIRST: That upon information and belief, the arrest was predicated upon an investigation carried out by the defendants herein.

SEVENTY-SECOND: That upon information and belief, on May 27, 2011, an attempted robbery occurred at a commercial establishment named METRO PCS, located at 1232 Broadway, Brooklyn, New York.

SEVENTY-THIRD: That plaintiff was in no way connected with that event, but had been a customer within that store prior thereto.

SEVENTY-FOURTH: That on the date of the incident, plaintiff was not in the aforesaid METRO PCS store.

SEVENTY-FIFTH: That plaintiff had not stolen anything from the aforesaid METRO PCS store.

SEVENTY-SIXTH: The complainant's description of the intruder did not in any way, shape, or form fit the physical appearance or persona of plaintiff ROBERTO DELANUEZ.

SEVENTY-SEVENTH: The complainant did pick plaintiff out of a police staged line-up, but that identification was found by the Hon. Deborah A. Dowling, J.S.C. to be the result of unlawful suggestion by law enforcement in the manner in which the line-up was conducted.

SEVENTY-EIGHTH: That defendants obtained a video surveillance recording which purportedly recorded the aforementioned attempted robbery for which the plaintiff was falsely arrested, imprisoned, charged and prosecuted.

SEVENTY-NINTH: That the aforementioned video surveillance recording was in defendants' possession prior to the subject arrest.

EIGHTIETH: That defendants all knew that the aforementioned video surveillance recording did not depict the plaintiff, ROBERTO DELANUEZ.

EIGHTY-FIRST: That defendants all knew that the aforementioned video surveillance recording depicted someone other than the plaintiff.

EIGHTY-SECOND: That the arrest was initiated and continued without probable cause to believe that any crime had been committed by plaintiff ROBERTO DELANUEZ.

EIGHTY-THIRD: That despite this knowledge that the aforementioned video surveillance recording did not depict the plaintiff perpetrating the attempted robbery, defendant THE CITY OF NEW YORK, by its agents, servants, and employees, including, but not limited to, defendants DET. WILLIAM WALDRON, SGT. ANTHONY LONGOBARDI, P.O. TOMAS REYES, LT. MICHAEL CULKIN, OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY, DISTRICT ATTORNEY CHARLES J. HYNES, ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP, ASSISTANT

DISTRICT ATTORNEY LEILA ROSINI, ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN and ASSISTANT DISTRICT ATTORNEY ERNEST CHEM initiated a criminal prosecution against plaintiff, charging him with attempted robbery in the first degree, attempted robbery in third degree, attempted petit larceny and criminal possession of a weapon in the fourth degree.

EIGHTY-FOURTH: That despite this knowledge that the aforementioned video surveillance recording did not depict the plaintiff perpetrating the attempted robbery, defendant THE CITY OF NEW YORK, by its agents, servants, and employees, including, but not limited to, defendants DET.WILLIAM WALDRON, SGT. ANTHONY LONGOBARDI, P.O. TOMAS REYES, LT. MICHAEL CULKIN, OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY, DISTRICT ATTORNEY CHARLES J. HYNES, ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP, ASSISTANT DISTRICT ATTORNEY LEILA ROSINI, ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN and ASSISTANT DISTRICT ATTORNEY ERNEST CHEM continued the criminal prosecution against plaintiff.

EIGHTY-FIFTH: That defendants failed to timely disclose the aforementioned video surveillance recording during the criminal discovery proceedings.

EIGHTY-SIXTH: That defendants failed to disclose the aforementioned video surveillance recording in violation of the constitutional mandates of Brady v. Maryland.

EIGHTY-SEVENTH: That plaintiff remained incarcerated and

was forced to defend himself against criminal charges that were false and were known to be false by the defendants.

EIGHTY-EIGHTH: That on January 17, 2013, on the eve of the criminal trial, defendants did not go forward with the continued prosecution of this matter and plaintiff was released from jail in his own recognizance.

EIGHTY-NINTH: That on February 4, 2013, after numerous appearances in court, all charges were dismissed against the plaintiff.

NINETY: That the arrest, incarceration and prosecution of plaintiff by the defendants was unjustified and excessive as plaintiff did not commit any act which would provoke such a response from the defendants herein.

NINETY-FIRST: That plaintiff was confined to the custody of legal authorities under the control of defendant THE CITY OF NEW YORK and incarcerated from June 3, 2011 through January 17, 2013, inclusive, for a period of time consisting of approximately Five Hundred Sixty Two (562) days.

NINETY-SECOND: That plaintiff had knowledge of this confinement.

NINETY-THIRD: That plaintiff did not consent to the confinement.

NINETY-FOURTH: That plaintiff was prevented from leaving confinement.

NINETY-FIFTH: Plaintiff sustained great fear, emotional harm, disgrace, embarrassment and loss of self-esteem as a result of the aforesaid arrest, imprisonment, intimidation and abusive behavior perpetrated upon him by defendants as a result of the afore mentioned events.

NINETY-SIXTH: Plaintiff suffered from a loss of liberty and deprivation of civil rights protected by the United States and New York State Constitutions as a result of the afore-referenced events.

AS AND FOR A FIRST CAUSE OF ACTION FOR  
VIOLATION OF PLAINTIFF'S RIGHTS UNDER THE  
FOURTH, FIFTH AND FOURTEENTH AMENDMENTS TO  
THE UNITED STATES CONSTITUTION PREDICATED  
UPON FALSE ARREST AND IMPRISONMENT:

NINETY-SEVENTH: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

NINETY-EIGHTH: As a result of the aforescribed actions, including the arrest and imprisonment of plaintiff without probable cause, defendant THE CITY OF NEW YORK, by its agents, servants and/or employees, including but not limited to, defendants DET. WILLIAM WALDRON, SGT. ANTHONY LONGOBARDI, P.O. TOMAS REYES and LT. MICHAEL CULKIN deprived plaintiff ROBERTO DELANUEZ of the rights, privileges and immunities secured by the Constitution and laws of the United States and the Fourteenth

Amendment.

NINETY-NINTH: As a result of the aforescribed actions, these defendants deprived plaintiff ROBERTO DELANUEZ of the right to be free from unreasonable search and seizures secured by the Constitution and laws of the United States and the Fourth and Fourteenth Amendments.

ONE HUNDREDTH: As a result of the aforescribed actions, these defendants deprived plaintiff ROBERTO DELANUEZ of his right to liberty without due process of law secured by the Constitution and laws of the United States and the Fifth and Fourteenth Amendments.

ONE HUNDRED FIRST: The aforescribed constitutional violations are all actionable under and pursuant to 42 U.S.C. §§ 1981, 1983, 1985 and 1986.

ONE HUNDRED SECOND: The aforescribed acts of these defendants was intentional, willful, malicious and performed with reckless disregard for and deliberate indifference to plaintiff's rights.

ONE HUNDRED THIRD: As a result of the foregoing, plaintiff has been damaged in a sum of money greater than the monetary jurisdictional limits of all lower Courts.

AS AND FOR A SECOND CAUSE OF ACTION FOR VIOLATION OF PLAINTIFF'S RIGHTS UNDER THE FOURTH, FIFTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION PREDICATED UPON THE MALICIOUS PROSECUTION BY AND THROUGH THE INITIATION OF THE CRIMINAL PROSECUTION WITHOUT PROBABLE CAUSE:

ONE HUNDRED FOURTH: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

ONE HUNDRED FIFTH: As a result of the aforescribed actions, including the initiation of the criminal prosecution of plaintiff without probable cause, defendants THE CITY OF NEW YORK, DET. WILLIAM WALDRON, SGT. ANTHONY LONGOBARDI, P.O. TOMAS REYES, LT. MICHAEL CULKIN, OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY, DISTRICT ATTORNEY CHARLES J. HYNES, ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP, ASSISTANT DISTRICT ATTORNEY LEILA ROSINI, ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN and ASSISTANT DISTRICT ATTORNEY ERNEST CHEM deprived plaintiff ROBERTO DELANUEZ of the rights, privileges and immunities secured by the Constitution and laws of the United States and the Fourteenth Amendment.

ONE HUNDRED SIXTH: As a result of the aforescribed actions, these defendants deprived plaintiff ROBERTO DELANUEZ of the right to be free from unreasonable search and seizures secured by the Constitution and laws of the United States and the Fourth and Fourteenth Amendments.

ONE HUNDRED SEVENTH: As a result of the aforescribed actions, these defendants deprived plaintiff ROBERTO DELANUEZ of his right to liberty without due process of law secured by the Constitution and laws of the United States and the Fifth and Fourteenth Amendments.

ONE HUNDRED EIGHTH: The aforescribed constitutional violations are all actionable under and pursuant to 42 U.S.C. §§ 1981, 1983, 1985 and 1986.

ONE HUNDRED NINTH: The aforescribed acts of these defendants were intentional, willful, malicious and performed with reckless disregard for and a deliberate indifference to plaintiff's rights.

ONE HUNDRED TENTH: As a result of the foregoing, plaintiff has been damaged in a sum of money exceeding the monetary jurisdictional limits of all lower Courts.

AS AND FOR A THIRD CAUSE OF ACTION FOR  
VIOLATION OF PLAINTIFF'S RIGHTS UNDER THE  
FOURTH, FIFTH AND FOURTEENTH AMENDMENTS TO  
THE UNITED STATES CONSTITUTION PREDICATED  
UPON THE MALICIOUS PROSECUTION BY AND THROUGH  
THE CONTINUATION OF THE CRIMINAL PROSECUTION  
WITHOUT PROBABLE CAUSE:

ONE HUNDRED ELEVENTH: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

ONE-HUNDRED TWELFTH: As a result of the aforescribed actions, including the continuation of the criminal prosecution

of plaintiff without probable cause, defendants THE CITY OF NEW YORK, DET. WILLIAM WALDRON, SGT. ANTHONY LONGOBARDI, P.O. TOMAS REYES, LT. MICHAEL CULKIN, OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY, DISTRICT ATTORNEY CHARLES J. HYNES, ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP, ASSISTANT DISTRICT ATTORNEY LEILA ROSINI, ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN and ASSISTANT DISTRICT ATTORNEY ERNEST CHEM deprived plaintiff ROBERTO DELANUEZ of the rights, privileges and immunities secured by the Constitution and laws of the United States and the Fourteenth Amendment.

ONE HUNDRED THIRTEENTH: As a result of the aforescribed actions, these defendants deprived plaintiff ROBERTO DELANUEZ of the right to be free from unreasonable search and seizures secured by the Constitution and laws of the United States and the Fourth and Fourteenth Amendments.

ONE HUNDRED FOURTEENTH: As a result of the aforescribed actions, these defendants deprived plaintiff ROBERTO DELANUEZ of his right to liberty without due process of law secured by the Constitution and laws of the United States and the Fifth and Fourteenth Amendments.

ONE HUNDRED FIFTEENTH: The aforescribed constitutional violations are all actionable under and pursuant to 42 U.S.C. §§ 1981, 1983, 1985 and 1986.

ONE HUNDRED SIXTEENTH: The aforescribed acts of these

defendants were intentional, willful, malicious and performed with reckless disregard for and a deliberate indifference to plaintiff's rights.

ONE HUNDRED SEVENTEENTH: As a result of the foregoing, plaintiff has been damaged in a sum of money exceeding the monetary jurisdictional limits of all lower Courts,

AS AND FOR A FOURTH CAUSE OF ACTION FOR VIOLATION OF PLAINTIFF'S RIGHT TO BE FREE FROM UNREASONABLE SEARCHES AND SEIZURES AND PROSECUTION WITHOUT PROBABLE OR REASONABLE CAUSE UNDER THE FOURTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION PREDICATED UPON DEFENDANTS' CUSTOMS, POLICIES, PATTERNS (MONELL):

ONE HUNDRED EIGHTEENTH: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth herein of length.

ONE HUNDRED NINETEENTH: That the afore-described actions, including the unlawful act of withholding exculpatory information, commonly referred to as Brady material, during plaintiff's criminal prosecution, withholding exculpatory information in violation of court order, the initiation of the prosecution of the plaintiff without probable cause, the continuation of the prosecution of plaintiff after determining through an investigation inclusive of viewing a video surveillance recording, that there was no probable cause to sustain criminal charges against plaintiff, and the failure to

prevent the continuing violations of plaintiff's civil rights, resulted from and were taken pursuant to a custom, policy, pattern, practice and/or regular course of conduct of the defendants THE CITY OF NEW YORK and the OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY, through their agents, servants and/or employees, including the individual defendants named herein.

ONE HUNDRED TWENTIETH: That the acts which constitute the custom, pattern or practice complained of include, but not by way of limitation, the following: defendants' refusal to dismiss criminal cases that are determined to have no merit; defendants' withholding of exculpatory evidence; defendants' continuation of criminal cases, even in the face of exculpatory evidence, so as to compel an unjust admission, confession or plea disposition; and defendants' continuation of prosecutions in order to exhaust those being prosecuted financially, physically and emotionally, so as to compel unjust admissions, confessions or plea dispositions.

ONE HUNDRED TWENTY-FIRST: That the existence of these policies, practices, customs and/or courses of conduct, among others, have been known to the supervisory policy making employees of defendants THE CITY OF NEW YORK and the OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY for a substantial period of time.

ONE HUNDRED TWENTY-SECOND: That despite their knowledge

of these policies, practices, customs and/or courses of conduct of defendants THE CITY OF NEW YORK and the OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY, by their agents, servants and/or employees, defendants' supervisory and policy making employees have not taken steps to terminate said practices, have not disciplined or otherwise properly supervised or retrained the individuals who engaged in said practices, have not effectively trained or retrained employees with regard to proper investigatory and prosecutorial practices including the disclosure of exculpatory information, have not set up any mechanism to prevent such practices from continuing and have instead sanctioned the policy and practices described previously through their deliberate indifference to the effects of such policy and practices upon the constitutional rights of the general public, including residents and visitors of the City of New York, and including the plaintiff herein.

ONE HUNDRED TWENTY-THIRD: That defendants THE CITY OF NEW YORK and the OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY, by their agents, servants and/or employees, having sanctioned and caused a violation of the civil rights of plaintiff, are liable to plaintiff for injuries resulting from violations of the Fourth and Fourteenth Amendments of the United States Constitution, actionable under and pursuant to 42 U.S.C. Sections 1981, 1983, 1985, 1986, 1988.

ONE HUNDRED TWENTY-FOURTH: As a result of the acts stated above, plaintiff has suffered a deprivation of liberty without probable cause, denial of due process, invasion of privacy, damage to character and reputation and plaintiff will continue to suffer same in the future.

ONE HUNDRED TWENTY-FIFTH: As a result of the acts stated above, plaintiff was compelled to and did incur expenses as a result, and was caused great social embarrassment and sustained a loss of diverse sums of money including, legal fees, a loss of wages and future income benefits.

ONE HUNDRED TWENTY-SIXTH: As a result of the foregoing, plaintiff has been damaged in a sum of money exceeding the monetary jurisdictional limits of all lower Courts.

**AS AND FOR A FIFTH CAUSE OF ACTION FOR FALSE  
ARREST AND IMPRISONMENT:**

ONE HUNDRED TWENTY-SEVENTH: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

ONE HUNDRED TWENTY-EIGHTH: As a result of the foregoing, plaintiff was, without just cause or provocation, maliciously, recklessly, and/or intentionally arrested and imprisoned by defendants without probable cause resulting in an unlawful confinement, deprivation of liberty and other serious injury and

harm to plaintiff.

ONE HUNDRED TWENTY-NINTH: That at the time and place aforesaid, the named defendants, individually and/or vicariously by and through their agents, servants and/or employees, without just cause or provocation, maliciously, recklessly, and/or intentionally caused plaintiff to be arrested and imprisoned plaintiff without probable cause resulting in an unlawful confinement, deprivation of liberty and other serious injury to plaintiff.

ONE HUNDRED THIRTIETH: That the occurrence and damages sustained by plaintiff were caused solely by the malicious, reckless, and/or intentional conduct of defendants, individually and/or vicariously by and through their agents, servants and/or employees, without any provocation on the part of plaintiff contributing thereto.

ONE HUNDRED THIRTY-FIRST: As a result of the foregoing, plaintiff has been damaged in a sum of money exceeding the monetary jurisdictional limits of all lower Courts.

**AS AND FOR A SIXTH CAUSE OF ACTION FOR  
MALICIOUS PROSECUTION:**

ONE HUNDRED THIRTY-SECOND: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

ONE HUNDRED THIRTY-THIRD: As a result of the foregoing, plaintiff was, without just cause or provocation, maliciously, recklessly and/or intentionally charged with and prosecuted for a crime without probable cause resulting in an unlawful deprivation of liberty and other serious harm to plaintiff.

ONE HUNDRED THIRTY-FOURTH: That this prosecution and these charges were continued without just cause or provocation, and without probable cause resulting in an unlawful deprivation of liberty and other serious harm to plaintiff.

ONE HUNDRED THIRTY-FIFTH: That at the time and place aforesaid, defendants, individually and/or vicariously by and through their agents, servants and/or employees, including members of the New York City Police Department and members of the Kings County District Attorney's Office, without just cause or provocation, maliciously, recklessly and/or intentionally charged and prosecuted plaintiff without probable cause resulting in an unlawful deprivation of liberty and other serious harm to plaintiff.

ONE HUNDRED THIRTY-SIXTH: That the occurrence and damages sustained by plaintiff were caused solely by the malicious, reckless and/or intentional conduct of defendants, individually and/or vicariously by and through their agents, servants and/or employees, including members of the New York City Police Department and members of the Kings County District Attorney's

Office, without any provocation on the part of the plaintiff contributing thereto.

ONE HUNDRED THIRTY-SEVENTH: As a result of the foregoing, plaintiff has been damaged in a sum of money exceeding the monetary jurisdictional limits of all lower Courts.

AS AND FOR A SEVENTH CAUSE OF ACTION FOR  
NEGLIGENT AND INTENTIONAL INFLICTION OF  
EMOTIONAL HARM:

ONE HUNDRED THIRTY-EIGHTH: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

ONE HUNDRED THIRTY-NINTH: As result of the foregoing, defendants THE CITY OF NEW YORK, DET.WILLIAM WALDRON, SGT. ANTHONY LONGOBARDI, P.O. TOMAS REYES, LT. MICHAEL CULKIN, OFFICE OF THE DISTRICT ATTORNEY OF KINGS COUNTY, DISTRICT ATTORNEY CHARLES J. HYNES, ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP, ASSISTANT DISTRICT ATTORNEY LEILA ROSINI, ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN and ASSISTANT DISTRICT ATTORNEY ERNEST CHEM, intentionally, wantonly, recklessly, carelessly and/or negligently engaged in extreme and outrageous conduct measured by the reasonable bounds of decency tolerated by a decent society, thereby inflicting mental and emotional distress upon plaintiff.

ONE HUNDRED FORTIETH: As a result of the foregoing, plaintiff has been damaged in a sum of money exceeding the

monetary jurisdictional limits of all lower Courts.

**AS AND FOR AN EIGHTH CAUSE OF ACTION FOR  
NEGLIGENT TRAINING, SUPERVISION AND  
RETENTION:**

ONE HUNDRED FORTY-FIRST: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

ONEHUNDRED FORTY-SECOND: That at all times hereinafter mentioned, defendant THE CITY OF NEW YORK, by its agents, servants and/or employees, carelessly, negligently and recklessly hired applicants for the positions of Police Officer and Assistant District Attorney.

ONE HUNDRED FORTY-THIRD: That at all times hereinafter mentioned, defendant THE CITY OF NEW YORK, by its agents, servants and/or employees, carelessly, negligently, and recklessly trained applicants for the positions of Police Officer and Assistant District Attorney.

ONE HUNDRED FORTY-FOURTH: That at all times hereinafter mentioned, defendant THE CITY OF NEW YORK, by its agents, servants and/or employees carelessly, negligently and recklessly supervised, controlled, managed, maintained and inspected the activities of its Police Officers and Assistant District Attorneys.

ONE HUNDRED FORTY-FIFTH: That at all times hereinafter

mentioned, defendant THE CITY OF NEW YORK, by its agents, servants and/or employees, caused, permitted and allowed its Police Officers and Assistant District Attorneys to act in an illegal, unprofessional, negligent and/or deliberate manner in carrying out their official duties and/or responsibilities.

ONE HUNDRED FORTY-SIXTH: That at all times hereinafter mentioned, defendant THE CITY OF NEW YORK, by its agents, servants and/or employees, carelessly, negligently and recklessly retained in its employ, police officers and Assistant District Attorneys clearly unfit for the position who acted in an illegal, unprofessional, negligent and/or deliberate manner in carrying out their official duties and/or responsibilities prior to the date of the incident complained of herein.

ONE HUNDRED FORTY-SEVENTH: That at the time and place aforesaid, defendant THE CITY OF NEW YORK, by its agents, servants and/or employees, without just cause or provocation, maliciously, recklessly, and/or intentionally falsely arrested, imprisoned and maliciously prosecuted plaintiff, causing serious personal harm and damages to plaintiff, with knowledge that he had not committed any crime and without any evidence to believe that he had committed a crime.

ONE HUNDRED FORTY-EIGHTH: That the occurrence and damages sustained by plaintiff were caused solely by and as a result of the malicious, reckless, negligent and/or intentional conduct of

defendant THE CITY OF NEW YORK, its agents, servants and/or employees, as set forth above, without any provocation on the part of the plaintiff contributing thereto; specifically, the negligent and reckless manner in which said defendant hired, trained, supervised, controlled, managed, maintained, inspected and retained its police Officers and Assistant District Attorneys.

ONE HUNDRED FORTY-NINTH: As a result of the foregoing, plaintiff has been damaged in a sum of money exceeding the monetary jurisdictional limits of all lower Courts.

STATEMENT REGARDING ARTICLE 16 OF THE C.P.L.R

One or more of the exceptions set forth in Article 16 of the Civil Practice Law and Rules apply to one or more of the causes of action herein, such that defendants are jointly and severally liable with all other tortfeasors, whether parties to this action or not.

STATEMENT REGARDING PUNITIVE DAMAGES

Without pleading punitive damages as separate cause of action, plaintiff hereby puts defendants DET.WILLIAM WALDRON, SGT. ANTHONY LONGOBARDI, P.O. TOMAS REYES, LT. MICHAEL CULKIN, DISTRICT ATTORNEY CHARLES J. HYNES, ASSISTANT DISTRICT ATTORNEY LECIA GRIEPP, ASSISTANT DISTRICT ATTORNEY LEILA ROSINI, ASSISTANT DISTRICT ATTORNEY LINDSEY LIEBERMAN and ASSISTANT DISTRICT ATTORNEY ERNEST CHEM on notice that said defendants' respective

acts and omissions, which were a cause of the subject occurrences, were of such an unjustifiable, willful and wanton nature, and so incredibly deviated from accepted and proper police procedure and prosecutorial conduct practices and standards, that they exhibited a gross disregard for the health, welfare and safety of the public at large and in particular, plaintiff ROBERTO DELANUEZ, such that plaintiff shall request that a judgment granting punitive damages be entered against said defendants, so as to punish said defendants and deter similar conduct on the parts of others.

WHEREFORE, plaintiff ROBERTO DELANUEZ demands that judgment be entered against the defendants herein as follows:

On the First Cause of Action:	In a sum of money exceeding the monetary jurisdictional limits of all lower Courts;
On the Second Cause of Action:	In a sum of money exceeding the monetary jurisdictional limits of all lower Courts;
On the Third Cause of Action:	In a sum of money exceeding the monetary jurisdictional limits of all lower Courts;
On the Fourth Cause of Action:	In a sum of money exceeding the monetary jurisdictional limits of all lower Courts;
On the Fifth Cause of Action:	In a sum of money exceeding the monetary jurisdictional limits of all lower Courts;
On the Sixth Cause of Action:	In a sum of money exceeding the monetary jurisdictional limits of all lower Courts;
On the Seventh Cause of Action:	In a sum of money exceeding

the monetary jurisdictional  
limits of all lower Courts;  
and

On the Eighth Cause of Action: In a sum of money exceeding  
the monetary jurisdictional  
limits of all lower Courts;

together with interest, costs and disbursements of this action,  
and for punitive damages in an amount to be determined by  
the fact-finder at the trial of this action.

Yours, etc.

FIGMAN & EPSTEIN, LLP

A handwritten signature in blue ink, reading "Alan H. Figman" with a stylized flourish at the end.

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By: ALAN H. FIGMAN, ESQ.  
Attorneys for Plaintiff  
ROBERT DELANUEZ  
Office & P.O. Address  
11 Broadway, Suite 868  
New York, New York 10004  
(212) 248-7800

## ATTORNEY'S VERIFICATION

ALAN H. FIGMAN, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under penalty of perjury:

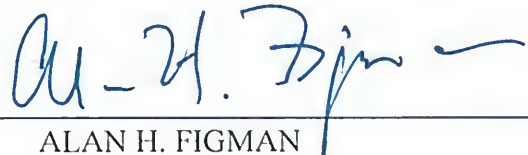
That I am member of FIGMAN & EPSTEIN, LLP, attorneys for the plaintiff in the within action.

That I have read the within **VERIFIED COMPLAINT** and know the contents thereof, and that the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, I believe it to be true.

That the sources of this information and knowledge are investigations and records on file.

That the reason this verification is made by deponent, and not by the plaintiff, is that the plaintiff is not presently within the County where the attorney has his office.

Dated: New York, New York  
July 1, 2013



A handwritten signature in blue ink, appearing to read "Alan H. Figman", is written over a horizontal line.

ALAN H. FIGMAN